

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RAMON SANTANA,

Plaintiff,

**5:12-cv-625
(GLS/ATB)**

v.

**CITY OF ITHACA, NEW YORK
et al.,**

Defendants.

SUMMARY ORDER

This action was commenced by plaintiff *pro se* Ramon Santana against the City of Ithaca, New York and Ithaca Building Commissioner Phyllis Radke in New York State Supreme Court in Tompkins County, and was subsequently removed to this court. (See Dkt. No. 1.) Defendants moved to dismiss Santana's Complaint pursuant to Fed. R. Civ. P. 12(b)(6), and Santana requested, in a cross motion, leave to amend his Complaint. (See Dkt. Nos. 6, 9.) The court granted Santana leave to amend and denied defendants' motion with leave to renew. (See Dkt. No. 11.) In accordance with that Summary Order, Santana filed an Amended Complaint on July 11, 2012. (See Dkt. No. 12.) Defendants subsequently renewed their motion to dismiss, and Santana filed a cross motion seeking

leave to file a Second Amended Complaint. (See Dkt. Nos. 18, 20.) Both motions are presently pending before the court.

Although in all cases “[t]he court should freely give leave [to amend] when justice so requires,” Fed. R. Civ. P. 15(a)(2), “a *pro se* litigant in particular should be afforded every reasonable opportunity to demonstrate that he has a valid claim,” *Matima v. Celli*, 228 F.3d 68, 81 (2d Cir. 2000) (internal quotation marks and citations omitted). Having reviewed the parties’ submissions, the court concludes that leave to amend is appropriate. See Fed. R. Civ. P. 15(a)(2). Santana is therefore granted leave to file a Second Amended Complaint in compliance with, *inter alia*, Fed. R. Civ. P. 8(a) and N.D.N.Y. L.R. 7.1(a)(4). Consequently, Ithaca and Radke’s motion to dismiss is denied with leave to renew after Santana files his Second Amended Complaint.

ACCORDINGLY, it is hereby

ORDERED that Santana’s cross motion to amend (Dkt. No. 20) is **GRANTED**; and it is further

ORDERED that Santana shall—in accordance with the requirements of, *inter alia*, Fed. R. Civ. P. 8(a) and N.D.N.Y. L.R. 7.1(a)(4)—file a Second Amended Complaint within thirty (30) days of this order; and it is

further

ORDERED that Ithaca and Radke's motion to dismiss (Dkt. No. 18) is **DENIED** with leave to renew within fourteen (14) days after the filing of the Second Amended Complaint; and it is further

ORDERED that, if Ithaca and Radke elect not to challenge the sufficiency of the Second Amended Complaint, they must file the appropriate responsive pleadings within the time allotted by the rules; and it is further

ORDERED that, unless defendants renew their motion to dismiss, the parties shall contact Magistrate Judge Baxter to schedule further proceedings in accordance with this Order; and it is further

ORDERED that the Clerk provide a copy of this Summary Order to the parties.

IT IS SO ORDERED.

October 9, 2012
Albany, New York


Gary L. Sharpe
Chief Judge
U.S. District Court